

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7546

BILL NUMBER: HB 1776

NOTE PREPARED: Jan 1, 2005

BILL AMENDED:

SUBJECT: Seizing Weapons from a Mentally Ill Individual.

FIRST AUTHOR: Rep. Buell

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill permits a law enforcement officer to seize a firearm possessed by an individual whom the officer reasonably believes to be mentally ill and dangerous. The bill requires the firearm to be returned to the individual within 45 days unless a court finds that the individual is mentally ill and dangerous and that retention of the firearm by the law enforcement agency is appropriate. It permits a court to issue a search warrant for a firearm possessed by an individual believed to be mentally ill and dangerous. It also allows an individual whose firearm has been seized and retained to petition the court for review of the retention order once every six months. The bill authorizes a court to order a firearm retained by a law enforcement agency to be destroyed or otherwise disposed of after five years. It makes conforming amendments. (The introduced version of this bill was prepared by the Commission on Mental Health.)

Effective Date: July 1, 2005.

Explanation of State Expenditures: This bill would allow a law enforcement officer to (1) charge an individual with an offense, or (2) apply for a warrant to seize a firearm possessed by an individual, if the officer reasonably believes the individual to be mentally ill and dangerous. The court then maintains possession of the firearm until (a) the court orders the firearm be given back to the owner or (b) five years passes. The fiscal impact of this bill is minimal.

Increased Court Time: This bill could increase court time, however, any additional court time is likely minimal. The Indiana Prosecuting Attorneys Council reports that prosecuting a person under the requirements of this bill would seldom happen. Furthermore, if the person were participating in commitment procedures, both issues would be addressed at the same hearing resulting in no increase in court time.

Any increase in court time is dependent on the number of persons falling under the requirements of this bill that are not also participating in commitment procedures. Any increase in expenditures is likely minimal.

Weapons Storage: The bill requires the law enforcement agency which conducted the seizure to hold the weapon for a period of time not to exceed 5 years. Following this, the weapon is ordered to be destroyed or otherwise permanently disposed of. Current statute requires that seized weapons be destroyed through (a) public sale, (b) destruction, or (c) release to the State Police Department laboratory or forensic laboratory for research. The actual amount of time that the weapon is stored is dependent on whether or not the court finds that the owner is mentally ill and dangerous and so said weapon should not be returned, or the owner attempts to petition the court to return the weapon themselves and the court accepts the petition. The Indiana State Police reports that any increase in expenditures for storage of weapons is likely small.

Physician's Examination: The bill requires that a prosecuting attorney include a physician's statement when petitioning the court to order the law enforcement agency having custody over the firearm to retain the firearm. As was indicated above, it is possible that a person falling under the requirements of this bill would also be participating in commitment procedures. Current statute requires that the person be evaluated by a physician regarding the person's mental state prior to a commitment proceeding. In such a case, there would be no increase in expenditures for the state. If the person is not participating in commitment procedures, the state could experience a small increase in expenditures, and the person would need to be examined by a physician. Any increase is, however, likely small.

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues:

State Agencies Affected: Family and Social Services Administration, Local Law Enforcement Agencies, Indiana State Police, Department of Corrections, Trial Courts.

Local Agencies Affected:

Information Sources: Steve Johnson, Indiana Prosecuting Attorneys Council, 232-1836; Mike Eslinger, Indiana Sheriffs' Association, 356-3633.

Fiscal Analyst: Sarah Brooks, 317-232-9559.